

# CONFERENCE OF THE COMMITTEE ON DISARMAMENT

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Comments on draft convention on the "Prohibition of Military or any other use of environmental modification techniques" (CCD/471, CCD/472) made in a statement by Mrs. Inga Thorsson in the First Committee of the United Nations General Assembly, 14 November, 1975

The problem of environmental warfare has attracted much attention during the past years. Already the present state of technology admits the use of environmental modification techniques. The gradual development of technology in this field will perhaps in the future make application feasible to activities which today we would view as science fiction. Several examples of possible peaceful uses of this technique can be quoted. It is however, also beyond doubt that the technique can be used in such a way as to cause immense harm to mankind. Peaceful uses may involve incidental harmful effects, and even more, the technique may as well be used for clear hostile purposes. This latter case is dealt with in the draft convention presented by the United States and USSR almost three months ago.

Even peaceful measures involved in this context are often of such magnitude that the effects extend beyond the territory of one State. Spillover effects into other States or international areas are very likely to occur. It is important that international legal principles and guidelines be developed simultaneously or - even better - one step ahead of the scientific progress in this field. In the declaration adopted by the United Nations Conference on the Human Environment, held in Stockholm in 1972, it was stated that "in the long and tortuous evolution of the human race on this planet a stage has been reached when, through the rapid acceleration of science and technology, man has acquired the power to transform his environment in countless ways and on an unprecedented scale. Both aspects of man's environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights - even the right to life itself". Some basic legal norms, but not very articulate and explicit, do exist in this field and the United Nations Environment Programme (UNEP) does deal with environmental modification problems. Nevertheless it seems urgent to achieve, as soon as possible, internationally accepted legal instruments relating to the peaceful uses of environmental modification techniques.

Mr. Chairman, let me now turn to the hostile uses. This problem was, as mentioned earlier, discussed in quite some detail at the last session of the CCD. It was obvious that scientific and technical advances may open new possibilities with respect to hostile modification of the environment. I will not go into detail of the various methods analysed, suffice it to mention that the discussion in the CCD covered such methods as the dispersion and generation of fog and clouds, the generation and direction of storms, the making of rain and snow, disruption of the ionosphere, modification of the ozone layers, stimulation of large tidal waves, of earthquakes and of volcano eruptions. A survey of the literature would of course give many more examples. I should add that there is no consensus on the significance of these methods.

Before I comment on the various aspects of the draft convention it is appropriate to call the attention of this committee to the fact that the Diplomatic Conference on International Law in Armed Conflicts at its second session in Geneva this year dealt with this problem. In a first reading, the third committee of that conference, adopted two articles relating to environmental warfare, which read as follows:

"It is forbidden to employ methods and means of warfare which are intended to or may be expected to cause widespread, long-term and severe damage to the natural environment".

The paragraph that I have just read falls into the context of methods and means of combat.

In the context of the protection of the civilian population against the effects of hostilities the following article was adopted:

"(1) Care shall be taken in warfare to protect the natural environment against widespread, long-term and severe damage. Such care includes a prohibition on the use of methods or means of warfare which are intended or may be expected to cause such damage to the natural environment and thereby to prejudice the health or survival of the population.

(2) Attacks against the natural environment by way of reprisal are prohibited".

Thus, when these articles are finally adopted, every method or means of warfare which would seriously damage the natural environment will be prohibited - including of course the particular type on environmental modification techniques we are now dealing with. It is interesting to note, that not only those measures which are intentionally directed against the natural environment are prohibited, but also such measures that may be expected to cause, even as an incidental effect, severe damage to the environment. Environmental modification techniques, as weapons in international wars, will thus be prohibited.

What I have just said does not, of course, make the draft convention superfluous. The scope of the convention is broader. It covers all hostile use even in peacetime. But it will of course be an important task to harmonize the international efforts in this field, which are pursued in fora such as the CCD, the Diplomatic Conference on International Law in Armed Conflicts and UNEP. Already at last year's session in this committee, while not commenting on questions of substance, I expressed my government's great interest in this topic. With the report of the CCD including the proposed draft convention before us I would now like to comment in substance on the various articles contained in the draft and to raise some questions of interpretation and application.

The convention in fact does not prescribe any form of disarmament. It does prohibit certain use. But it does not envisage the elimination from the arsenals of States of the technique, or rather devices, necessary to carry out the technique. Neither does it prevent experiments with such techniques. The reasons for this are perhaps to be found in the thin borderline between peaceful and hostile use, consisting only in a pronounced or self-evident intent behind the action. Further, the ban does not include all military or any other hostile use of environmental modification techniques. According to Article I of the draft it would only apply to those which have widespread, long-lasting or severe effects, when used as the means of destruction, damage or injury to another State party.

The expression "military or any other hostile use" used in the same article does not seem entirely clear to my delegation. All military uses are not necessarily hostile - manoeuvres are of course military in their nature but in most cases not hostile. In order to avoid such a contradictory language and to make the scope of the prohibition as wide as possible, one should settle for the term "hostile use".

Furthermore only such uses which have "widespread, long-lasting or severe effects" would be prohibited. Since apparently the fulfillment of one of these criteria is enough to brand the technique as illegal, the scope of this provision seems broader than that of the articles adopted at the Conference on the International Law in Armed Conflicts, where all three criteria must be present. However, neither of these criteria has as yet been defined, perhaps because of the difficulty to arrive at a precise and clear-cut definition. The drafters of this convention have, through the enumeration of examples in Article II, intended to give us an idea of what is prohibited. Even when account is taken of the fast development of technology that list in the view of my

delegation, however, contains examples that seem to approach science fiction. In our view such a list of examples seem to be superfluous as it would have no legal effect. Moreover, such examples could focus attention on methods for environmental modification for hostile purposes which might prove to be insignificant in the future and which might direct attention from serious developments in other fields.

One of the basic principles in international relationships is to refrain not only from the use but also from the threat of use of force. In the context of environmental warfare, is not the threat of use of an environmental modification technique for reasons of coercion more likely to occur than the actual use itself? Thus, it is important that Article I should prohibit not only the use but also the threat of use.

For the sake of clarity let me sum up my comments on what the scope of the prohibition ought to include: apart from the use it should cover the threat of use and not only the intentional use but any use which may be expected to cause widespread, long-lasting or severe effects. It is the hostile use that ought to be prohibited. The present wording "military or any other hostile use" is confusing and contradictory. The examples given on prohibited use are not apposite. As I have said there is no need for such examples, but if it is the general opinion that examples are necessary, examples of a less fanciful character must be chosen.

Turning now to Article III, it would prescribe that the convention would not be applicable to the peaceful use of modification techniques. As I have already emphasized it is of great importance that existing basic legal norms with respect to the peaceful use, are developed into international regulations. The present wording of Article III which states that "the provisions of this convention shall not hinder the use of environmental modification techniques for peaceful purposes" could be misinterpreted in the sense that every application of this technique is free and permissible as long as no hostile purpose is involved. Such an interpretation is, as we know, wrong. I cannot see the need for an Article III since Article I limits the scope to the hostile use. If there is a need to re-emphasize the non-applicability to peaceful uses, the article should at least be rephrased to read: "the provisions of this convention do not apply to etc. ...".

As regards the provisions for ensuring compliance, contained in Article V, the suggested procedure follows in almost identical terms the procedure of the Bacteriological (biological) weapons Convention. Already in the negotiation of this convention in 1971, the Swedish delegation, as well as other delegations, expressed

concern about the prescribed complaint procedure in the Security Council. The same concern was again expressed in my statement last year with respect to the Soviet proposal on this topic. Regrettably I find it necessary to voice this concern once again. It is imperative that in the concrete negotiations to follow another and more acceptable complaint procedure than that foreseen in Article V, paragraph 2 will have to be found.

We assume that obligations of States under this convention are to be entered into on the basis of equality, that is all States parties should accept the same obligations to co-operate in an investigation, should a complaint of violation be lodged. Therefore, we must be convinced that States bound by the convention are treated on an equal basis. We must be reassured that the permanent members of the Security Council in this context will not use their right of veto in a case of complaint. It is my hope, Mr. Chairman, that the future discussions on this matter will clarify the points I have commented on today.